



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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NORMAN H. STEPHEN
BURNS, DOANE, SWEDICK & MATTHEWS
GEORGE MASON BLDG.
WASHINGTON & PRINCE STS., P. O. BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
LIPINSKI, J.D.	
ART UNIT	PAPER NUMBER
122	12

DATE MAILED: 11/24/87

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on 9/2/87 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | <input type="checkbox"/> Notice of informal Patent Application, Form PTO-152 |
| <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. Claims 1-51, 56-63 AND 65-118 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claim 118 is allowed.

4. Claims 1-45, 56-63 AND 65-117 are rejected.

5. Claims 46-51 are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.

8. Allowable subject matter having been indicated, formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. These drawings are acceptable; not acceptable (see explanation).

10. The proposed drawing correction and/or the proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved. disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections **MUST** be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.

12. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other _____

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Art Unit 125

1. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1-45, 56-63 and 65-117 are rejected under 35 U.S.C. 103 as being unpatentable over the references of Phillipps et al (1 and 2) and Edwards in combination with Sarrett et al for reasons already of record. Applicants arguments have been considered but are not seen as persuasive. Arguments presented in relation to the patents of Stache et al (4,242,334 and 4,377,575) are deemed irrelevant as such art not part of the basis of the instant rejection. The Nakagawa

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declaration is noted but is not in point as it fails to address the expected utility of compounds produced as a result of the combination of the cited references.

2. Claims 46-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claim 118 is allowable over the prior art of record.

4. The patents of Stache et al are cited to show the state of the art.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication should be directed to Joseph Lipovsky at telephone number 703-557-3920.

LIPOVSKY/wgb

11/17/87

Joseph A. Lipovsky
JOSEPH A. LIPOVSKY
EXAMINER
ART UNIT 125

Leonard Schenkma
LEONARD SCHENKMA
EXAMINER
ART UNIT 125